

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

APPEALS OFFICE - LP Bldg.

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Date: December 5, 2014

Docket # 14-1948

Hearing Date: December 1, 2014



ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested was convened on December 1, 2014 in the Department of Human Services (DHS) Newport Regional Family Center. As a result of the evidence and testimony given, the decision has been made that your complaint is not within the jurisdiction of the Appeals Office to hear.

Present at the hearing were: Your son (the appellant's son), agency representatives Carmel Gurten, agent social worker Victoria Loveridge and agency supervisor Robert Palin.

Copies of this decision have been sent to the following: You (the appellant), your son (Power of Attorney), representatives Carmel Guertin, agent social worker Victoria Loveridge and agency supervisor Robert Palin and the Policy Unit.

APPEAL RIGHTS: Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

You requested a hearing to appeal an Agency notice dated August 28, 2014 regarding your Rhode Island Medial Assistance category level charging from a categorically needy to medically needy. At the hearing, evidence and testimony was given by both parties regarding this issue. However, another issue, which was raised at the hearing by this Appeals Officer, must take precedence. That issue is regarding the timeliness of your appeal.

The Rhode Island Department of Human Services Manual provides in pertinent part:

THE DHS POLICY MANUAL: GENERAL PROVISIONS

§ 0110.20 DEFINITION OF AN APPEAL

REV:03/2007

A written request by a claimant (or his/her authorized representative) stating that s/he wants an opportunity to present his/her case to higher authority may be considered an appeal. The appeal must be filed within:

- o Ten (10) days from the date of the notice of action if it pertains to General Public Assistance;
- o Ninety (90) days when it concerns SNAP benefits;
- o Forty-five (45) days when it involves issues pertaining to the Office of Rehabilitation Services; and
- o Thirty (30) days from the date of any child support service.
- o Thirty (30) days from the date of the notice when it involves any other DHS program.

A review of your request for hearing form finds that it was date stamped as being received in the Appeals Office on October 20, 2014; date stamped as being received by the Long Term Care (LTC) Unit in Cranston on October 16, 2014; and date stamped as being received by the LTC Unit in Newport Regional Family Center on October 14, 2014. The "Request for a Hearing" form (DHS-121) is signed by your son, as Power of Attorney, and is dated October 14, 2014.

A review of the Agency's policy regarding appeals, which is included in the above text of this decision, reveals that appeals relative to the Medical Assistance Program must be filed within 30 days of the Agency's notice of action. All notices contain a request for hearing form, as well as an explanation of the appeal rights and time deadlines. Your August 28, 2014 notice specifically informed you that if you disagreed with the agency decision, you had a right to file an appeal but were required to do so within 30 days of the notice. Your appeal was filed on October 14, 2014, which is over two weeks later than the due date of September 28, 2014 and thereby clearly beyond the 30-day limit.

Your son/Power of Attorney's reason as to why you did not file your appeal within the required 30 days was that he was working with the agency representative, had several telephone conversations with her after receiving the agency's notice date August 28, 2014 and had even submitted additional documentation (i.e. – lease, real estate taxes, water bill, home owner's insurance). The son/Power of Attorney was hoping that by keeping an open channel of communication, a reasonable resolution could be reached. The son/Power of Attorney testified that he was never urged to hold off filing an Appeal by the agency but finally did so after being told nothing else could be done on the agency's part to resolve this issue.

The agency testified that the August 28, 2014 notice was a computer generated notice that automatically includes the "Request for a Hearing" form (DHS-121) along with instructions for completing the DHS-121. Furthermore, after the Appellant's son submitted the additional documentation, which than had been reviewed by the agency supervisor and

was found not substantial enough to change the agency's position; the agency representative faxed the Appellant's son agency policy to explain the reasoning of the decision. Also, all three present on behalf of the agency testified that they did not suggest to the Appellant and/or her son to hold off filing an Appeal at any time.

In conclusion, a full review of the record finds that you were given adequate and proper notice on August 28, 2014 that your Medical Assistance benefit would be changing. You were also given adequate and proper notice of your right to appeal such action. It is your responsibility to ensure that an appeal request is filed within the required time limits and you failed to avail yourself of your appellate rights within the thirty days allowed. You were also given adequate opportunity at hearing to present evidence and testimony to show you had good cause for failing to submit a timely appeal. The record fails to establish good cause.

After a careful review of the Agency's policies, as well as the evidence and testimony given, this Appeals Officer finds that your appeal of the August 28, 2014 Agency notice regarding the Appellant's Medical Assistance case was not done in a timely manner. As such, your appeal of the Agency's action is dismissed due to a lack of jurisdiction. There will be no finding on the merits of the matter.



Thomas Bucacci
Appeals Office

APPENDIX

0110.20 Definition of an Appeal

REV: 08/2013

An "appeal" means a request by a claimant (or his/her authorized representative) for an opportunity to present his/her case to the appropriate state agency authority for resolution of the pertinent matter. The appeal must be filed within:

- Ten (10) days from the mail date if it pertains to General Public Assistance;
- Ninety (90) days from the mail date related to SNAP benefits;
- Forty-five (45) days from the mail date related to Office of Rehabilitation Services matters;
- Thirty (30) days from the mail date related to child support services;
- Thirty (30) days from the mail date related to the State Medical Assistance (Medicaid) Program;
- DCYF: Thirty (30) days from the mail date for any DCYF-related matter;
- BHDDH: Thirty (30) days from the mail date for any BHDDH-related matter;
- Thirty (30) days from the mail date for any other DHS program;
- Thirty (30) days from the mail date for any RIHBE-administered program.

Appeal requests for any of the programs listed above may be submitted:

- In person to any DHS/DCYF/BHDDH field office/appeals office, as appropriate; and
- By U.S. Mail to any DHS/DCYF/BHDDH field office/appeals office, as appropriate.

Appeal requests related to the MAGI Medicaid Program or related to any program administered by the RIHBE may, in addition to the submission methods listed above, be submitted:

- by telephone to the RIHBE contact center;
- by fax to the RIHBE contact center/appeals office;
- by U.S. Mail to the address indicated on the appeals request form; or
- online by accessing the user's account through the website made available by the RIHBE allowing for the electronic submission of appeals.

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.